

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application for Authority to Transfer Ownership
of Global Internetworking, Inc. (U-6673-C) to
Mercator Partners Acquisition Corp.

Application 06-06-027
(Filed June 28, 2006)

**OPINION AUTHORIZING TRANSFER OF OWNERSHIP AND
CONTROL OF GLOBAL INTERNETWORKING, INC. TO MERCATOR
PARTNERS ACQUISITION CORP.**

Summary

This decision grants the application of Mercator Partners Acquisition Corp. (Mercator) and Global Internetworking, Inc. (Global) (together, “Applicants”) for approval of a stock sale which would result in the transfer of 100% of the ownership of Global to Mercator, pursuant to Sections 852 and 854.¹

Parties to the Transaction

Global, a Virginia corporation, is a telecommunications provider that currently holds a certificate of public convenience and necessity (CPCN) (U-6673-C) authorizing the provision of limited facilities-based local exchange and resold local exchange and interexchange services in California.²

Mercator is a publicly traded Delaware corporation, which has its principal place of business in Reston, Virginia. According to the application,

¹ All Code references are to the Public Utilities Code, unless otherwise stated.

² See Decision (D.) 05-01-013, D.02-05-040.

Mercator was formed in January 2005 for the specific purpose of consummating a business combination in the telecommunications and technology sectors and raised \$59.5 million in April 2005 in an initial public offering to carry out this purpose. The application states that Mercator is not currently authorized to provide telecommunications services in California or any other state.

Proposed Transaction

Under this transaction, the current stockholders of Global will sell all of their shares to Mercator, and Mercator will acquire 100% ownership of Global.³ Global will then operate as a wholly-owned subsidiary of Mercator, which is publicly held.

Global will continue to hold its CPCN to provide telecommunications services in California.

Applicants represent that this change in ownership will benefit Global and its customers, because Global will have access to Mercator's financial resources and the telecommunications experience of Mercator's management.

The applicants further represent that the transaction will be transparent to customers. There will be no change in the name or management of Global because the transaction will be completed at the parent company level only. Customers will continue to receive service from Global under the same rates, terms, and conditions after the transaction is approved. According to the application, Mercator plans to retain the key management personnel of Global, so that the day-to-day management of Global will not change. In addition, the

³ According to the application, the existing stockholders of Global are D. Michael Keenan (45% ownership interest), Todd J. Vecchio (45% ownership interest), and Raymond E. Wiseman (10% ownership interest).

application states that Global's Chief Executive Officer will assume the same position with Mercator.

Discussion

Under Section 852, no public utility, and no subsidiary, affiliate of, or corporation holding a controlling interest in, a public utility, shall purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under the laws of this state, without prior Commission authorization. Section 854 further requires Commission authorization before a company may "merge, acquire, or control . . . any public utility organized and doing business in this state . . .". The purpose of these and related sections is to enable the Commission, before any transfer of a public utility is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. (San Jose Water Co. (1916) 10 CRC 56.)

In a situation where a company that does not possess a CPCN desires to acquire control of a company that does possess a CPCN, we will apply the same requirements as in the case of an applicant seeking a CPCN to exercise the type of authority held by the company being acquired. Therefore, although Mercator does not hold and is not applying for a CPCN to provide telecommunications services in California, Mercator must meet the requirements for issuance of a CPCN because it is acquiring ownership and ultimate control of Global.

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant who desires to operate as a facilities-based and resale provider of local exchange and interexchange service must demonstrate that it has a minimum of \$100,000 in cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up costs. In

addition, the applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

The application includes financial statements and other evidence that demonstrates that Mercator has sufficient resources to meet our financial requirements. Since Global is expected to continue to operate under the same management, we find that our requirement for technical expertise is satisfied, for the purposes of this transaction only.⁴ Global's management also has substantial experience in the telecommunications field. The transaction will give Global access to Mercator's financial resources and the telecommunications experience of Mercator's management. In addition, this transaction will be transparent to customers. Therefore, the proposed transaction is in the public interest.

Therefore, we will grant the application pursuant to Sections 852 and 854.

Categorization and Need for Hearings

In Resolution ALJ 176-3176 dated July 20, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

⁴ We make no determination that Mercator would otherwise meet the technical and managerial requirements for authorization to provide telecommunications services in this state.

Comments on Draft Decision

This is an uncontested matter, in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Rachelle B. Chong is the Assigned Commissioner and Myra J. Prestidge is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Global is a Virginia corporation and a telecommunications provider.
2. In D.05-01-013 and D.02-07-002, Global was granted a CPCN to provide limited facilities-based local exchange and resold local exchange and interexchange services in California.
3. Mercator is a publicly held Delaware corporation that was formed for the purpose of carrying out a business combination in the telecommunications and technology sectors.
4. Mercator's management has substantial experience in the telecommunications field.
5. As a result of the transaction, Mercator will acquire a 100% ownership interest in Global and will therefore have ultimate control of Global.
6. Mercator does not hold a CPCN that authorizes the company to provide telecommunications services in California.
7. There will be no change in the name or the day-to-day management of Global as a result of the transaction.
8. Global customers will continue to receive service under the same rates, terms, and conditions after the transaction.

9. Mercator has sufficient financial resources to meet the Commission's requirements to provide facilities-based and resold local exchange and interexchange services.

10. Since this transaction will give Global access to Mercator's financial resources, this transaction will improve Global's financial position.

11. Since Global's day-to-day management will remain the same, Mercator has met the requirements for technical and managerial expertise to provide telecommunications services, for the purposes of this transaction only.

12. Notice of this application appeared on the Commission's Daily Calendar on July 21, 2006. There were no protests to this application.

13. No hearings are necessary.

Conclusions of Law

1. The Commission will apply the same requirements to a request for approval of an agreement to acquire ownership and control of a limited facilities-based and resale provider of local exchange and interexchange telecommunications services within California as it does to an applicant for authority to provide such services.

2. Mercator meets the Commission's requirements for the issuance of a CPCN to provide facilities-based and resold local exchange and interexchange telecommunications services, for the purposes of this transaction only.

3. This transaction is in the public interest.

4. In order to avoid delaying this transaction, the approval of the application should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. Pursuant to Public Utilities Code Sections 852 and 854, the application of Global Internetworking, Inc. (Global) and Mercator Partners Acquisition Corp. (Mercator) for approval of the transfer of 100% of the ownership to Global to Mercator is approved.

2. Application 06-06-027 is closed.

This order is effective today.

Dated _____, at San Francisco, California.